

### **REMARKS**

Applicant has received and reviewed the Final Office Action dated November 2, 2011 (hereinafter "Final Office Action") and the Advisory Action dated February 9, 2012 (hereinafter "Advisory Action"). Claims 1-10, 31, and 33-40 stand rejected. More specifically, claims 1 and 3-10 are rejected under 35 U.S.C. § 103(a) over Illiff (U.S. Patent No. 5,594,638) (hereinafter "Illiff") in view of Ohayon et al., (U.S. Patent No. 4,712,562) (hereinafter "Ohayon"), in further view of Brown (U.S. Pub. No. 2003/0069753) (hereinafter "Brown"). Further, claims 31 and 33-40 are rejected under 35 U.S.C. § 103(a) over Illiff and Ohayon, in view of Brown, and in further view of Luttrell (U.S. Pub. No. 2003/0004758) (hereinafter "Luttrell").

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. In this Amendment, claims 1 and 31 are amended. Claim 3 is amended for minor informalities. Claims 37 and 38 are canceled. Therefore, claims 1-10, 31, 33-36, 39, and 40 remain present for examination.

Applicant submits that the claim amendments are supported throughout the specification, and in the claims as originally filed, and do not introduce new matter.

### **Interview Summary**

Applicant would like to thank Examiner Rapillo and Examiner Morgan for the in-person interview they conducted with Applicant's representatives George Lewis and Nisha Patel on April 24, 2012. In the interview, Examiner Rapillo, Examiner Morgan, and Applicant's representatives discussed the 35 U.S.C. § 103(a) rejection, the Brown reference, and proposed claim amendments. No agreement on allowance was reached.

### **Claim Objections**

The Office Action objects to claim 1 for utilizing an incorrect claim status identifier. Applicant thanks the Examiner for this notification. In response, the status identifier for claim 1 has been corrected. Accordingly, Applicant respectfully requests withdrawal of the claim objection.

**Claim Rejections under 35 U.S.C. § 103(a)****Claims 1 and 3-10**

Claims 1 and 3-10 are rejected under 35 U.S.C. § 103(a) over Illiff, in view of Ohayon, and in further view of Brown. Applicants respectfully traverse the rejections and do not concede the correctness of any characterizations of the prior art or application. To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the references must teach or suggest all of the claimed limitations to one of ordinary skill in the art at the time the invention was made. M.P.E.P §§ 2142, 2143.03; *In re Royka*, 490 F.2d 981, 985 (C.C.P.A. 1974); *In re Wilson*, 424 F.2d 1382, 1385 (C.C.P.A. 1970). Applicants submit that Illiff, Ohayon, and Brown, either alone or in combination, fail to teach or suggest all of the claimed limitations.

Claim 1 is directed to a system for determining whether a person should have health care professional attention and for providing clinical notes to a caregiver. Amended claim 1 recites, *inter alia*, *a datastore accessible by the remote computer*, the datastore having, for each of the questions, *a textual phrase associated with at least one answer to the question indicating that the patient is experiencing a symptom, wherein the textual phrase is different from the question and the answer.* Claim 1 further recites, “determine, for each of the questions, whether the answer to the question *indicates that the patient is experiencing a symptom associated with the question; and when the answer indicates that the patient is experiencing a symptom*, search the datastore accessible by the remote computer for textual phrases that match the question and *automatically employ grammatical rules on the textual phrases to generate a clinical note* for review by the health care professional.”

One non-limiting example that is consistent with these limitations of claim 20 is described at *Specification*, ¶ [0060]-[0061]. In this example, textual phrases relating to a question are incorporated into a textual phrase *when the patient answer indicates that the patient is experiencing a symptom*. “For example, assume the user 112 answered ‘yes’ to the question ‘are your ankles and feet swollen today?’ Initially, the answer is compared against a condition retrieved from the aforementioned condition set. Thus, for example, the retrieved condition requires that the user answer ‘yes’ for any text to be generated at all. If the user had answered ‘no’, no text is generated.” *Specification*, ¶ [0061].

The Office Action acknowledges that “Illiff and Ohayon fail to teach a system comprising: transmitting the answers to a remote computer via the communication device; and a remote computer programmed to: receive the answers from the monitoring device; determine, for each of the questions, whether the answer to the question satisfies a condition associated with the question; and when the answer satisfies the condition, search a datastore accessible by the remote computer for textual phrases that match the question and automatically generate a clinical note containing the textual phrases for review by the health care professional.” *Final Office Action*, p. 3. Instead, the Office Action asserts that Brown discloses these limitations. Applicants respectfully disagree.

In contrast, Brown discloses a report generator 45 “designed to generate a patient report 58 from the responses and device measurements received in server 18.” *Brown*, ¶ [105], Figure 10. The patient report includes “a graph 116 of device measurements 44 received from the patient, as well as a listing of responses 42 received from the patient.” *Id.* Furthermore, Brown includes an alternate user interface. *Brown*, Appendix D. Both the patient report and the alternate user interface display *all questions asked* by the system and *all answers received* by the patient.

Thus, Brown fails to disclose, at least, “determine, for each of the questions, whether the answer to the question indicates that the patient is experiencing a symptom associated with the question; and *when the answer indicates that the patient is experiencing a symptom*, search the datastore accessible by the remote computer for *textual phrases* that match the question and automatically employ grammatical rules and incorporate the textual phrases to generate a clinical note for review by the health care professional.” Furthermore, neither the patient report nor the alternate user interface generate “a textual phrase associated with the question and the answer, *wherein the textual phrase is different from the question and the answer*,” as recited in claim 1.

For at least the foregoing reasons, independent claim 1 is allowable over the cited references. All other claims, i.e., claims 3-10 depend from claim 1 and thus, are also allowable over the cited references. As such, Applicant respectfully requests that the Examiner withdraw the rejection and allow claims 1 and 3-10 at the Examiner’s earliest convenience.

Claims 31, 33-36, 39, and 40

Claims 31 and 33-40 are rejected under 35 U.S.C. § 103(a) over Illiff and Ohayon, in view of Brown, and in further view of Luttrell. Applicants respectfully traverse the rejections and do not concede the correctness of any characterizations of the prior art or application. To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the references must teach or suggest all of the claimed limitations to one of ordinary skill in the art at the time the invention was made. M.P.E.P. §§ 2142, 2143.03; *In re Royka*, 490 F.2d 981, 985 (C.C.P.A. 1974); *In re Wilson*, 424 F.2d 1382, 1385 (C.C.P.A. 1970). Applicants submit that Illiff, Ohayon, Brown, and Luttrell, either alone or in combination, fail to teach or suggest all of the claimed limitations.

Claim 31 is directed to a system for determining whether a person should have health care professional attention. Claim 31 recites, *inter alia*, “a datastore accessible by the remote computer, the datastore having, for each of the questions, a textual phrase associated with at least one answer to the question, a diagnosis, and a treatment.” Claim 31 further recites, “automatically create, in response to determining that the person should have health care professional attention, an entry in an intervention data field for the person, the entry comprising a preliminary diagnosis and a preliminary intervention to counteract at least one symptom experienced by the person; the preliminary diagnosis and the preliminary intervention determined as a function of the answers; and automatically employ grammatical rules to combine the textual phrases into a clinical note for review by the health care professional.”

For similar reasons as those stated above, Brown fails to disclose the subject matter relating to the above recited limitations of claim 31. Furthermore, Brown fails to disclose, at least, subject matter relating to “a textual phrase associated with at least one answer to the question, a diagnosis, and a treatment.” Brown also fails to disclose subject matter relating to automatically employing grammatical rules to incorporate the textual phrases to generate a clinical note for review by the health care professional. Illiff, Ohayon, and Luttrell fail to supply these deficiencies of Brown.

For at least the foregoing reasons, independent claim 31 is allowable over the cited references. All other claims, i.e., claims 33-36, 39, and 40 depend from claim 31 and thus, are

also allowable over the cited references. As such, Applicant respectfully requests that the Examiner withdraw the rejection and allow claims 31, 33-36, 39, and 40 at the Examiner's earliest convenience.

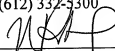
### CONCLUSION

In view of the foregoing remarks, Applicants respectfully submit that the claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Additionally, the Commissioner is hereby authorized to charge any additional fees as set forth in §§ 38 CFR 1.16 to 1.18 which may be required for entry of these papers or to credit any overpayment to Deposit Account No. 13-2725.

Respectfully submitted,  
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